

REMARKS

Claims 6, 8-12, 14-18, 23, 27, 29, 31, 39, 47, and 48 are pending in the present Application. Claims 6, 8 – 10, 12, 14 – 18, 27, 31, 39, have been cancelled, no claims have been amended or added, leaving Claims 11, 23, 29, 47, and 48 for consideration upon entry of the present Amendment.

The claims were cancelled merely to advance prosecution by taking the allowable claims and canceling the finally rejected claims.

Cancellation of the claims, as set forth above, are made in order to streamline prosecution in this case by limiting examination and argument to certain claimed embodiments that presently are considered to be of immediate commercial significance. Cancellation of the claims is not in any manner intended to, and should not be construed to, waive Applicants' right in the future to seek such cancelled subject matter, or similar matter (whether in equivalent, broader, or narrower form) in the present application, and any continuation, divisional, continuation-in-part, RCE, or any other application claiming priority to or through the present application, nor in any manner to indicate an intention, expressed or implied, to surrender any equivalent to the claims as pending after such amendments or cancellations.

Reconsideration and allowance of the claims are respectfully requested in view of the above amendments and following remarks.

Claim Rejections Under 35 U.S.C. § 103(a)

Claims 6, 8-10, 12, 14-18, 27, 31 and 39 stand rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 6,306,507 to Brunelle et al. or U.S. Patent No. 6,265,522 to Brunelle et al. or Publication No. WO 00/61664 to Pickett et al. in view of U.S. Patent No. 6,720,386 to Gaggar et al. or Applicant's Admissions. Claim 12 stands rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 6,306,507 to Brunelle et al. or U.S. Patent No. 6,265,522 to Brunelle et al. or Publication No. WO 00/61664 to Pickett et al. in view of U.S. Patent No. 6,720,386 to Gaggar et al. or Applicant's Admissions, and further in view of U.S. Patent No. 6,780,917 to Hashimoto et al. Applicants

respectfully traverse this rejection. Claim 31 stands rejected under 35 U.S.C. § 103(a), as allegedly unpatentable over U.S. Patent No. 6,306,507 to Brunelle et al. or U.S. Patent No. 6,265,522 to Brunelle et al. or Patent No. WO 00/61664 to Pickett et al. in view of U.S. Patent No. 6,720,386 to Gaggar et al. or Applicant's Admissions, and further in view of U.S. Patent No. 5,080,950 to Burke. Applicants respectfully traverse these rejections. Although Applicants contend that it would not be obvious to combine these references as suggested in the Office Action, the specifics are not addressed herein since they are moot. These claims have been cancelled. Reconsideration and withdrawal of these rejections are respectfully requested.

Double Patenting

Claims 6, 8-12, 14, 23, 27, 29, 31, 39 and 47-48 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-37 of copending Application No. 10/895,522 ('522 case) (U.S. Patent Publication No. 2006/0017193) in view of U.S. Patent No. 6,720,386 to Gaggar et al. or Applicant's Admissions. Claims 11-12 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-37 of copending Application No. 10/895,522 (U.S. Patent Publication No. 2006/0017193) in view of U.S. Patent No. 6,720,386 to Gaggar et al. or Applicant's Admissions. Claim 31 stands provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-37 of copending Application No. 10/895,522 (U.S. Patent Publication No. 2006/0017193) in view of U.S. Patent No. 6,720,386 to Gaggar et al. or Applicant's Admissions, and further in view of U.S. Patent No. 6,780,917 to Hashimoto et al. Claim 31 stands provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over Claims 1-37 of copending Application No. 10/895,522 (U.S. Patent Publication No. 2006/0017193) in view of U.S. Patent No. 6,720,386 to Gaggar et al. or Applicant's Admissions, and further in view of U.S. Patent No. 5,080,950 to Burke.

MPEP 804.I.B.1 states:

If a "provisional" nonstatutory obviousness-type double patenting (ODP) rejection is the only rejection remaining in the earlier filed of the two pending applications, while the later-filed application is rejectable on other grounds, the examiner should withdraw that rejection and permit the earlier-filed application to issue as a patent without a terminal disclaimer.

The present application was filed January 14, 2003. '522 case was filed July 20, 2004. Since the present case is the earlier filed application, the '522 case is still rejected, and the only remaining issues in the present case are the provisional double patenting rejections, in accordance with MPEP 804.I.B.1, these Provisional Double Patenting rejections should be withdrawn and the case allowed to issue. Hence, reconsideration and withdrawal of these rejections are respectfully requested.

It is believed that the foregoing remarks fully comply with the Final Office Action and that the claims herein are allowable to Applicants. Accordingly, reconsideration and withdrawal of the rejection(s) and allowance of the case are respectfully requested.

If there are any additional charges with respect to this Amendment or otherwise, please charge them to Deposit Account No. 50-3621.

Respectfully submitted,

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